

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 29, 2004 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #04051

PROPOSAL: To allow the sale of alcoholic beverages for consumption on the premises on four lots within the Horizon Business Center.

CONCLUSION: This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached ownership certificate.

LOCATION: Southwest of the intersection of South 14th Street and Pine Lake Road.

EXISTING ZONING: I-3 Employment Center

EXISTING LAND USE: Commercial/Vacant

SURROUNDING LAND USE AND ZONING:

North:	Commercial	I-3
South:	Commercial	I-3
East:	Commercial	B-2, H-4
West:	Residential	I-3

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates industrial land uses in this area.

BACKGROUND:

Use Permit #117 for Horizon Business Center was approved on June 12, 2000 for up to 530,000 square feet of retail, office and industrial floor area. This application was originally submitted to allow the sale of alcohol on Lot 15 only, a lot designated for retail and restaurant uses. Staff suggested that the application be revised to include all other sites within the use permit where future on-sale premises may potentially be located. As a result, the application was revised to include Lots 20, 21 and 31, lots which are designated for either retail, office,

or restaurant uses. The applicant does not anticipate the any future requests for on-sale alcohol any where else within the development.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

On-site parking is provided in accordance with LMC Chapter 27.67.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).

The licensed premises includes the building envelopes on Lots 15, 20, 21 and 31 of Use Permit #117. All these building envelopes are more than 100' away from a day care facility, park, church, state mental health institution, or residential district.

As a condition of approval, Use Permit #117 should be amended to include a general note indicating that the sale of alcohol for consumption on the premises was approved by special permit for Lots 15, 20, 21 and 31.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

All development within Horizon Business Center is subject to the lighting standards contained in both the Environmental Performance Standards for the I-3 district and the Parking Lot Lighting Standards of the City of Lincoln Design Standards and will be reviewed at the time of building permits.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are shown as part of this application.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district. The nearest residential district is in excess of 300' away northeast of the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the subject lots is from streets internal to the development, none of which are considered "residential streets". These internal streets intersect with South 14th Street, which is an arterial street.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department does not object to this request.

PUBLIC WORKS: Public Works and Utilities does not object to this request.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises on Lots 15, 20, 21 and 31 as shown on the attached site plan Use Permit #117 Horizon Business Park.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
 - 2.1.1 Use Permit #117 General Site Note #39 revised to read as follows:
ALCOHOLIC BEVERAGES MAYBE SOLD FOR CONSUMPTION ON

THE PREMISES ON LOTS 15, 20, 21 AND 31 AS ALLOWED BY
SPECIAL PERMIT #04051.

Standard:

3. The following conditions are applicable to all requests:
- 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
September 15, 2004

OWNER/

APPLICANT: South Industrial Park, LLC
300 North 44th Street
Lincoln, NE 68503
(402) 467-1234

OWNER: DaNay Kalkowski
1111 Lincoln Mall Ste 350
Lincoln, NE 68508
(402) 435-6000



Special Permit #04051 S. 14th & Pine Lake Rd.

2002 aerial

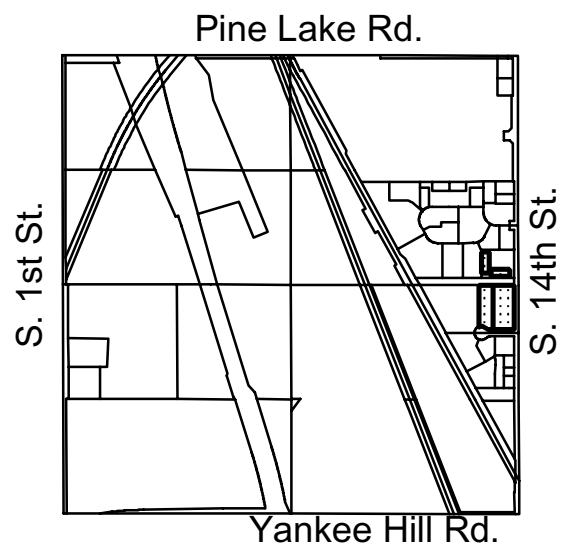
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

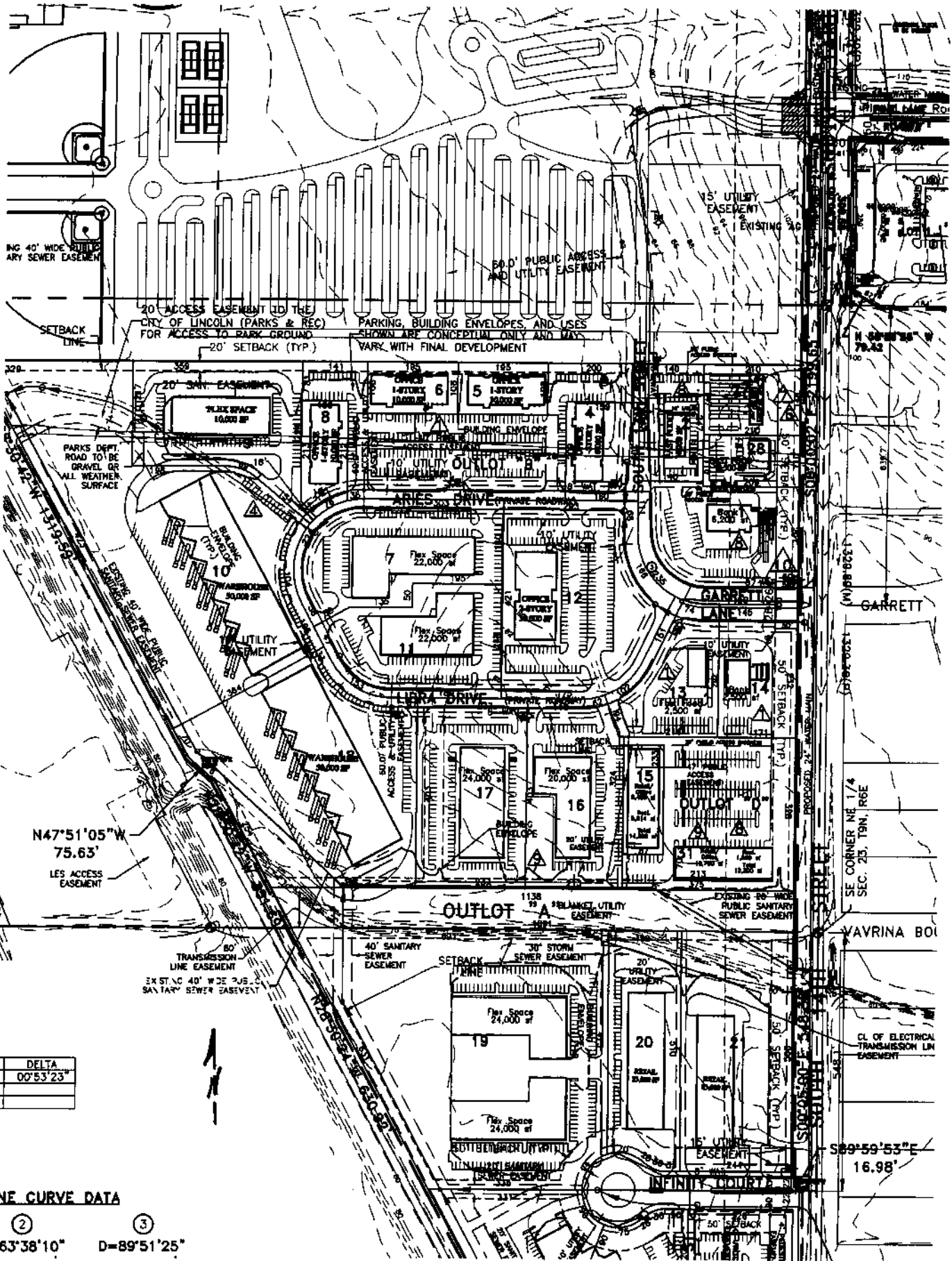
One Square Mile
Sec. 23 T9N R6E



Zoning Jurisdiction Lines
City Limit Jurisdiction



Lincoln City - Lancaster County Planning Dept.



ING 40' WIDE PUBLIC
ARY SEWER EASEMENT

40' ACCESS EASEMENT TO THE
CITY OF LINCOLN (PARKS & REC)
FOR ACCESS TO PARK GROUND
20' SETBACK (TYP.)

PARKING, BUILDING ENVELOPES, AND USES
SHOWN ARE CONCEPTUAL ONLY AND MAY
VARY WITH FINAL DEVELOPMENT

15' UTILITY EASEMENT
EXISTING AG

60' PUBLIC ACCESS
AND UTILITY EASEMENT

SETBACK
LINE

PARKS DEPT.
ROAD TO BE
GRAVEL OR
ALL WEATHER
SURFACE

20' SAN. EASEMENT
FLEX SPACE
10,000 SF

10' BUILDING
30,000 SF

UTILITY EASEMENT

30' PUBLIC
ACCESS EASEMENT

N47°51'05"W
75.63'
LES ACCESS EASEMENT

60' TRANSMISSION
LINE EASEMENT
EXISTING 40' WIDE PUB.
SANITARY SEWER EASEMENT

OUTLOT A

1138
12' BLANKET UTILITY EASEMENT

EXISTING 60' WIDE
PUBLIC SANITARY
SEWER EASEMENT

40' SANITARY
SEWER EASEMENT

30' STORM
SEWER EASEMENT

20' UTILITY
EASEMENT

DELTA
00°53'23"

NE CURVE DATA

② 63°38'10" ③ D=89°51'25"

GARRETT
LANE 146

SE CORNER NE 1/4
SEC. 23, 19N, R9E

YAVRINA BOI

S89°59'53"E
16.98'

INFINITY COURTS

SEACREST & KALKOWSKI, P.C.

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3905

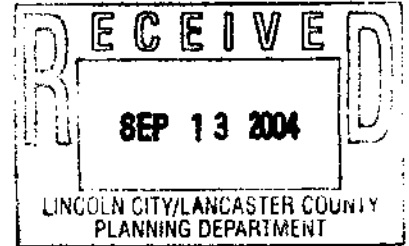
TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100

KENT SEACREST
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

September 13, 2004

Marvin Krout
Planning Director
County-City Building
555 South 10th Street
Lincoln, NE 68508



RE: Amendment to Special Permit Request - Lots 1 and 2, Horizon Business Center 6th
Addition and Lots 15 and 16, Block 1, Horizon Business Center Addition
("Property")

Dear Marvin:

On September 3, 2004 we submitted an application for a Special Permit to allow the sale of alcoholic beverages for consumption on the premises on Lot 1, Horizon Business Center 6th Addition. The owners would like to expand their request to include the Property legally described above. All of the Property is zoned I-3 and is included within Use Permit No. 117 for Horizon Business Center. The Property is shown as Lots 15, 31, 20 and 21 on the Use Permit Site Plan. The Property is located in the center of Horizon Business Center and is surrounded by I-3 zoned property on the north, west and south. South 14th Street abuts the Property to the east. The Property is located more than 100 feet from a daycare facility, park, church and state mental health institution and over 150 feet from a residential district. The proposed use for a portion of Lot 15 is a neighborhood bar and grill which would only be serving alcohol on the premises.

Enclosed please find a check in the amount of \$490 for the additional application fee. We have requested a revised ownership certificate for the Property and will forward it to you.

If you have any questions regarding the enclosed, please feel free to give me a call.

Very truly yours,


DANAY KALKOWSKI
For the Firm

Cc: Don Linscott

OWNERSHIP CERTIFICATE

FILE NO: 6015400

TO: DaNay Kalkowski
Seacrest & Kalkowski

Nebraska Title Company, authorized to engage in the business of abstracting in the State of Nebraska under Certificate of Authority No. 56, hereby certifies that the records of LANCASTER County, Nebraska have been carefully examined with referenced to the following described property, and from such examination finds as follows:

LEGAL DESCRIPTION:

Lots One (1) and Two (2), Horizon Business Center 6th Addition, Lincoln, Lancaster County, Nebraska; Lots Fifteen (15) and Sixteen (16), Block One (1), Horizon Business Center Addition, Lincoln, Lancaster County, Nebraska

OWNER OF RECORD:

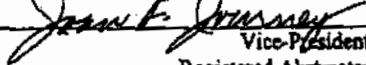
South Industrial Park LLC, a Nebraska limited liability company, Kenneth D. Kiene, and Security Financial Life Insurance Co., a Nebraska corporation,

UNRELEASED LIENS OF RECORD:

- a. Real Estate Deed of Trust (With Future Advance Clause) executed by South Industrial Park LLC, a Nebraska limited liability company, Trustor to Pinnacle Bank, Trustee and Beneficiary, in the stated amount of \$1,000,000.00, dated March 2, 2004, recorded March 111, 2004 as Inst. No. 2004-14536; records of Lancaster County, Nebraska.
- b. Deed of Trust from South Industrial Park LLC, a Nebraska limited liability company, to National Bank of Commerce Trust and Savings Association, Trustee and Beneficiary, in the principal amount of \$1,200,000.00 dated October 1, 1998 and recorded October 1, 1998 as Instrument Number 98-51622.
- c. Deed of Trust from South Industrial Park, LLC, a Nebraska Limited Liability Company, to U.S. Bank National Association, Trustee and Beneficiary, in the principal amount of \$2,000,000.00, dated July 27, 2000 and recorded August 8, 2000 as Instrument Number 2000-34895.

Effective Date: September 10, 2004 at 8:00 am

Nebraska Title Company

By: 
Vice-President
Registered Abstractor

Please direct inquiries to: Joan Journey